

NO PROTEST RECEIVED
Release copies to District

Date 5/30/84

Surname [REDACTED]

05 MAR 1984

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code.

The information furnished indicates that you were created as a fire department by an ordinance enacted by the [REDACTED] on [REDACTED]. You were created pursuant to Public Act Number [REDACTED] of the State of [REDACTED]. Your purposes were not set forth in the ordinance or in Public Act Number [REDACTED].

The fire chief and one assistant fire chief are appointed by the Township Board. The Township Board has the corporate authority of the fire department under your By-Laws and the authority to control all the affairs and properties of the fire department. The By-Laws provide that the Township Board shall prescribe the duties and fix the compensation of all officers, members and employees of the fire department and has broad power to remove officers and members from the fire department in addition to other authority over the fire department.

Section 501(c)(3) of the Code provides for the exemption of "corporations, and any other community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes...."

Income Tax Regulations section 1.501(c)(3)-1(e)(1) states that in order to be exempt as an organization described in section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more of the purposes specified in section 501(c)(3) of the Code and that if an organization fails to meet either the organizational test or the operational test, it is not exempt.

Income Tax Regulations section 1.501(c)(3)-1(b)(1) states that an organization is organized exclusively for one or more exempt purposes only if its articles of organization: a) Limit the purposes of such organization to one or more exempt purposes; and b) Do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

Section 1.501(c)(3)-1(b) of the Income Tax Regulations provides that an organization is organized exclusively for the required purposes only if its assets are permanently dedicated to those purposes. No such dedication exists if there is any possibility that the assets could ever be distributed to the members, or for any other private purposes.

Revenue Ruling 60-384, 1960-2 Cumulative Bulletin 172, held that a wholly-owned state or municipal instrumentality which is a separate entity and which is organized and operated exclusively for purposes described in section 501(c)(3) of the Code may qualify for exemption from federal income tax as an organization described in section 501(c)(3) of the Code. The Revenue Ruling also held that a state or municipality itself, however, would not qualify as an organization described in section 501(c)(3) since its purposes are clearly not exclusively those described in section 501(c)(3) of the Code. In addition, the Revenue Ruling stated that where the particular branch or department under whose jurisdiction the activity in question is being conducted is an integral part of a state or municipal government, the organization could not meet the requirements for exemption under section 501(c)(3) of the Code.

Because you are a department or an integral part of [REDACTED] you are not organized as a separate entity exclusively for one or more section 501(c)(3) purposes. Therefore, you do not meet the organizational test of section 1.501(c)(3)-1(a)(1), of the Income Tax Regulations. Because you do not meet the organizational test of the Regulations, you are not exempt under section 501(c)(3) of the Code.

You have the right to protest this ruling if you believe that it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement must be submitted in duplicate within 21 days of the date of this letter and must be signed by one of your principal officers. You also have a right to a conference in this office after your statement is submitted. If you want a conference, you must request it when you file your protest statement. If you are to be represented by someone who is not one of your principal officers, he must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

If you do not protest this proposed ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides, in part, that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

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[REDACTED]

If we do not hear from you within 21 days, this ruling will become final and copies will be forwarded to the District Director, Chicago, Illinois, which is your key District for exempt organization matters. Thereafter, any questions about your federal status should be addressed to that office. Also, the appropriate State officials will be notified of this action in accordance with section 6104(c) of the Code.

Further correspondence with respect to this case should be sent to the following address:

Internal Revenue Service
1111 Constitution Ave., N.W.
Washington, D. C. 20224
Attn: [REDACTED]
[REDACTED]

Sincerely yours,

[REDACTED]

[REDACTED]
Chief, Rulings Section
Exempt Organizations
Technical Branch

cc: DD, Chicago
Attn: EO Group

cc: Attorney General of [REDACTED]
[REDACTED]

cc: [REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

Code	Initial	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname							
Date	6/21/83	2/28/84					